

13 Rs. 180 under "28-6-Factories Contingencies-Rent"

Mr. V. K. Aravindaksha Menon (Chief Engineer): I rise to move for an allotment of Rs. 180 under "28-6-Factories-Contingencies-Rent." This amount is required for the payment of rent of the Office of Inspector of Factories and Boilers for 12 months. I request the House may be pleased to grant this.

Demand put and carried

14 Rs. 100 under "16-A-Law and Justice-T. A."

Mr. M. Sivarama Menon (Advocate-General): I rise to move for an additional allotment of Rs. 100 under "16-A-Law and Justice-T. A." The budget allotment for the year is only Rs. 200 and certain forest cases have been asked to be conducted by the Government Pleader of Trichur and these cases are pending before the Chittur Magistrate. At the time the budget was framed, this expense could not have been anticipated and the balance available is quite insufficient to meet the charges under that head, and the rule is that the charges under T. A. for the current year must be drawn in that year itself. Therefore I am moving for this additional allotment.

Demand put and carried

LEGISLATIVE BUSINESS**1. The Cochin Verumpattamdar's Bill**

Mr. Parambi Lonappan (Diwan Peishkar): Sir, I rise to present the Select Committee Report on the Cochin Verumpattamdars' Bill. I became a member of this Committee at the two last sittings of the Committee. The report has already been published and the copies of it have been given to the Hon'ble Members. The committee has made certain changes in the Bill first introduced. In the first place, the Committee thought it necessary to explain the meaning of the words *kudiyirippu* and *kudiyiruppuhakaran* to make the Bill a complete one. Some changes have also been introduced in the provisions of the Bill regarding the right to evict the landholders or tenants in areas in the Municipality. Some provision has also been made for payment of some rent to the land owners from tenants who are known as *tharikuthukaran* in the Chittur Taluk. Since the report has been given to you already, I do not want to say much further on this matter. I place the report before you for acceptance.

Mr. T. A. Ramachandra Ayyar (Nellayi): With your permission, I wish to make a statement about this.

Mr. President: It is not proposed to take up the Bill for discussion for this session. You have got ample time.

Motion put and carried

2. The Cochin Municipal Act (Amendment) Bill

Mr. C. J. Mathew (Joint Secretary to Government): I rise to move that the Cochin Municipal Act (Amendment) Bill be read in Council. The object of this amendment is explained in the objects and reasons attached to the Bill. It is therefore not necessary for me to make a lengthy speech. As regards the removal of disqualification of aided school teachers, it is done only in pursuance of a motion moved in this Council and the assurance held out by the Government to amend the Act for that purpose. Section 54 of the Municipal Act provides for the decision on questions of disqualification of councillors on application made by the Councillor concerned or of any other councillor or the executive authority at the request of the Councillor. It is not to the interest of the Councillor to make the application and run the risk of an adverse decision. While the councillor will be generally inclined to make an application, he will hesitate to take the initiative in view of the cost. The only course seems to be for the Government to make the application as has been recently done in Madras. As for the other amendment the question of giving some relief in the matter of toll to motor vehicles in and round the area of British Cochin, Willingdon Island and Mattancheri has engaged the attention of the Government and the Madras Government has also addressed the Government for some arrangement whereby motorists in British Cochin using cars in State and *vice versa* may be given some relief on a reciprocal basis. It is necessary to provide within the entire area of British Cochin, Willingdon Island, Mattancheri and Ernakulam a specified fee and also for the apportionment thereof between the various authorities. The Act does not provide for the issue of composite licenses. The amendment is necessary to give effect to the arrangement that has been entered into with the Madras Government. That is the reason for clause 5 of the Bill. Lastly, clause 6 is for the purpose of providing a time limit within

which appeals have to be preferred against the acts or orders of the executive authorities. The matters covered by the Bill do not tread on controversial grounds. I beg leave of the House to move for the acceptance of the Bill.

Motion put and carried

Secretary to the Council: The Title of the Bill is the Cochin Municipal Act (Amendment) Bill.

Mr. C. J. Mathew (Joint Secretary to Government): I request the President that S. O. 32 may be suspended and the Bill be taken up for consideration at once.

Mr. President: S. O. 32 is suspended.

Clauses 2 to 6 put and carried one by one

Clause 1 put and carried

Preamble put and carried

Mr. C. J. Mathew (Joint Secretary to Government): I request that the Bill may be taken up and finally passed tomorrow.

Motion put and carried

3. The Cochin Maintenance Orders Enforcement Bill

Mr. M. Sivarama Menon (Advocate-General): I beg to move that the Cochin Maintenance Orders Enforcement Bill be read in Council.

The object of this Bill is only to provide reciprocity between Travancore, British India and all other Governments which are prepared to reciprocate with this State in the matter of enforcement of maintenance orders passed by competent Courts in favour of wives, children, etc. It sometimes happens that the moment the order or decree is passed the husband goes out to British India or Travancore and thus evades the jurisdiction of our courts when the time for the execution of the decree or order comes. In England there is a law whereby reciprocation has been achieved in this matter between the United Kingdom and the Dominions. In British India also legislation was passed in 1922 for a like purpose. In Travancore also there is a legislation on parallel lines. It is highly necessary that we should also fall into line with other Governments in the matter of the reciprocal arrangement allowing execution of maintenance decrees and orders in favour of dependants. This is not at all a controversial measure. It closely follows the British Indian and Travancore Acts on the point and this Bill will come into operation only between the Governments which mutually agree to reciprocate. For instance, if Madras agrees to have our decrees enforced in the Presidency of Madras, then of course we will also recognise their decrees for enforcement here. If this Bill comes into operation, it will be for the benefit of all persons in whose favour maintenance allowance has been ordered by courts of law—either by a civil court or by a criminal court wherever the person bound to obey the decree be. It is a wholesome piece of legislation to protect the interests of the helpless women and children who have been unable to realise the maintenance allowance allowed to them by courts of law on account of the change of residence of the judgment debtors or counter-petitioners.

Mr. V. J. Mathai (Planters): Are there corresponding legislations in British India and Travancore?

Mr. M. Sivarama Menon (Advocate-General): I have already stated in the statement of objects and reasons and here that there is a legislation in British India and Travancore on parallel lines.

Mr. T. A. Ramachandra Ayyar (Nellayi): Suppose there is an ex parte decree in British India, that order will be treated as an ex parte decree by our court?

Mr. M. Sivarama Menon (Advocate-General): The interests of justice are never forgotten. No order or decree will be valued unless an opportunity has been given to show cause why the order should not be passed. Refusal to plead in spite of notice will not give any undeserved protection.

Mr. K. S. Panicker (Ezhuvas-Mukundapuram): On a point of information, Sir, ബ്രിട്ടീഷിൻഡ്യയിൽ ഇങ്ങിനെ ഒരു വിധി സമ്പാദിച്ചിട്ടു ആക്ട് ഇങ്ങോട്ടു വന്നു. വിധി എക്സിക്യൂട്ടീവ് ആണ്. അതിന് വാദിക്കേണ്ടതു് ഇവിടെയോ അവിടെയോ?

മിസ്റ്റർ എം. ശിവരാമമേനോൻ: എത്രകക്ഷിക്ക് ബ്രിട്ടീഷിൻഡ്യയിൽ നോട്ടീസ് കൊടുക്കാതെയാണ് വിധി ഉണ്ടായതു് എങ്കിൽ ആയതു് ഒരു തല്ലാല വിധി മാത്രമാണ്. അതു് ഇവിടെ സ്ഥിരപ്പെടുത്തണം. ബ്രിട്ടീഷിൻഡ്യയിൽതന്നെ നോട്ടീസുകൊടുത്തിട്ടും എ

the *Verumpattomdar* who defaults for one year in the payment of the whole or part of the rent. He should be made liable to eviction if he fails to furnish security.

The second proposal is summary procedure. In my opinion summary procedure is one of the practicable means of ensuring speedy recovery of rent. The application may be for the recovery of arrears for a period of at least three years. Moreover immediate possession should be given to the superior landlord, allowing six months' time from the date when the rent falls due, before the superior landlord could claim possession, possession to be given up by the *Jenmi* when he gets his rent, with a time limit for the paying of rent.

The next important objection is the absence in the Bill of any provision enabling a landlord to evict his tenant for the purpose of self-cultivation. The Committee in their report says that they did not vote for this provision because they were unable to devise practical means to prevent effectively an abuse of this privilege.

While there is general agreement that abuse of these provisions should be prevented as far as possible, it is also to be conceded that those landlords who want to evict tenants in order to earn their livelihood by cultivation should be able to do so. The landlord should be given an opportunity to go back to his own land and take to cultivation, especially at a time when families are being partitioned on account of the recent Nayar, Marumakkathayam and Namboodiri Acts, and when even educated members belonging to such families find it well-nigh impossible to secure employment in Government service or to take to any lucrative profession. In such cases there is no reason why a mere occupier or a speculator should be preferred to the owner or the *Jenmi*. Even if a tenant owns many acres of land he should not be allowed to be evicted with respect to any portion of his holding by his *Jenmi* even if that *Jenmi* has no land in his possession. The idea seems to be there is something sacrosanct in the name "cultivator" and this word loses its sanctity if the *Jenmi* becomes one.

According to section 5 of the Act the *pattom* payable by the *Verumpattomdar* at the commencement of the Act should be considered as fair rent. Though this is a rough and ready method this would cause great injustice to those ancient and generous landlords who have demised their lands on very low *pattom*. On the other hand it causes great hardship to those tenants under *Jenmies* who have fixed the maximum amount of *pattom* on their holdings. I, therefore, recommend a general settlement of fair rents in a manner similar to that adopted in the Burma Tenancy Act of 1939.

These are some of my important objections. I sign this report subject to my right to move amendments.

APPENDIX V

THE COCHIN MUNICIPAL ACT (AMENDMENT) BILL

Preamble.—Whereas it is expedient further to amend the Cochin Municipal Act, XVIII of 1113; It is hereby enacted as follows.—

1. (1) *Short title and commencement.*—This Act may be called the Cochin Municipal (Amendment) Act of

(2) It shall come into force at once.

2. *Amendment of section 51.*—In sub-section (2) of section 51 of the Cochin Municipal Act, XVIII of 1113 hereinafter referred to as the Act, the words "and no teacher in an aided school" shall be deleted.

3. *Amendment of section 54.*—In sub-section (1) of section 54 of the Act, after the words "at the request of the Council" the words "or on a direction from the Government" shall be inserted.

4. *Amendment of section 82.*—In clause (c) of sub-section (2) of section 82 of the Act, for the word "preceding" occurring between the words "half-year" and "the" the word "succeeding" shall be substituted.

5. *Insertion of section 93-A.*—After section 93 of the Act, the following shall be inserted as section 93-A.

"93-A. (1) *Composite tax and licence.*—If Government are satisfied that the Government of Madras will exempt motor cars on which a composite tax has been levied by the Municipal Councils of Ernakulam or Mattancheri from the payment of the tax leviable under the Madras Motor Vehicles Taxation Act, III of 1931, when such cars ply within the Municipal limits of British Cochin, Government may notwithstanding the provisions contained in section 93, by rules provide for—

(i) the levy of a composite half yearly tax on cars kept within the Municipalities of Ernakulam and Mattancheri by the respective Municipalities and the issue of composite licences therefor;

(ii) the exemption of motor cars kept within the British Cochin Municipality on which a corresponding composite tax has been levied by the Madras Government from payment of tolls established by the Municipalities of Ernakulam and Mattancheri;

(iii) the apportionment of the amount realised as composite tax under clauses (1) and (2) as between the Municipalities of Ernakulam, Mattancheri, the Government of Madras, and the Cochin Port Authority; and

(iv) such other matters as may be necessary to give effect to the reciprocal arrangement herein provided for.

Explanation.—"Motor cars" in this section shall have the meaning assigned to it in the Cochin Motor Vehicles Act, VIII of 1116.

6. *Amendment of section 329.*—Section 329 of the Act shall be renumbered as sub-section (1) and for the proviso to that section the following shall be substituted.—

"(2) Any person aggrieved by any notice or order issued or passed by, or by any other act of a Municipal Council or its Chairman or executive authority under this Act may appeal to the Diwan or such other officer as may be appointed by Government in that behalf. The Diwan or other appellate officer may pass such orders on the appeal as he thinks fit and pending decision may direct the Council, Chairman, or executive authority to keep the proceedings in abeyance.

(3) An appeal under sub-section (1) or (2) shall be presented within 30 days from the date of the act or the promulgation or service of the order or notice complained of. The time occupied in obtaining copies of material papers in connection with the order notice or act appealed against shall be excluded from the computation of the said thirty days".

Statement of Objects and Reasons

Teachers of aided schools are disqualified for election to the Municipal Councils. It has been brought to the notice of Government that this disqualification should be removed. Section 54 of the Municipal Act, provides for the decision on questions of disqualification of Councillors on application made by the Councillor concerned or any other Councillor or by the Executive Authority at the request of the Councillor. It is not to the interest of the Councillor to make the application and run the risk of an adverse decision. The Council will generally be unwilling to ask its executive authority to make the application nor would another Councillor taken the initiative in the matter in view of the cost the litigation will entail. In these circumstances it appears necessary to take power to direct the executive authority in proper cases to apply to the District Judge. The Act has been amended for this purpose in Madras.

Section 82 (c) of the Cochin Municipal Act provides that if notice is given to the Municipality of the demolition or destruction of a house within the last four months of a half year the owner shall be entitled to a remission of so much not exceeding a half of the tax payable in respect of the building only as is proportionate to the number of days in that half year preceding the demolition or destruction. The tax on a building which is demolished or destroyed in a half year should be in proportion to the number of days succeeding the demolition or destruction. The section has, therefore, to be amended.

The issue of a composite licence or the levy of a composite tax is necessary to give relief in the matter of toll to motor vehicles plying in and around the area comprising Ernakulam, Mattancheri, British Cochin and Willingdon Island. The Government of Madras has agreed to recognise within the British Cochin Municipality the composite licences issued here on a reciprocal basis. Since the Municipal Act does not authorise the issue of a composite licence it is necessary to take power for this purpose.

Section 329 of the Act does not provide the time limit within which appeals are to be preferred to the Municipal Councils. It is necessary to provide a time limit by adequately amending the section. Hence the Bill.

APPENDIX VI

THE COCHIN MAINTENANCE ORDERS ENFORCEMENT BILL

Preamble.—Whereas it is expedient to facilitate the enforcement in Cochin of maintenance orders made in British Indian and other parts of His Britannic Majesty's dominions and protectorates and *vice-versa*;